

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No. 205 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be
allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the
fair copy of the judgment ?

4 Whether this case involves a substantial
question of law as to the interpretation
of the constitution of India, 1950 or any
order made thereunder ?

5 Whether it is to be circulated to the
civil judge ?

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ICICI BANK LTD
Versus
KAMALBHAI B SINGALA

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Appearance :

MR CR ABICHANDANI for Appellant.

MR AM PAREKH for respondent.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 07/11/2006

ORAL JUDGMENT

The appellant herein in is original defendant of

Civil Suit No. 1072 of 2003. The respondent original plaintiff had taken loan of Rs.4,67,000/- from the appellant Bank for the purpose of purchasing a Maruti Esteem car. As per the loan agreement, the plaintiff was required to pay Rs.15,071/- every month towards installment. The plaintiff has also executed certain documents. After paying some installments, the plaintiff failed to comply with the terms of the loan agreement. The Bank therefore seized the vehicle and at that stage, the plaintiff filed the aforesaid suit praying for a declaration that the act of seizure of the vehicle is illegal and arbitrary and to give the possession of the car to the plaintiff. In the said suit, the plaintiff also gave an application for mandatory injunction stating that on his depositing the amount towards outstanding installment which comes to Rs.45,000/- in all, the Bank may be directed to handover the possession of the car in question.

Learned trial Judge by his impugned order dated 20th May 2003 directed the plaintiff to pay Rs.50,000/- and also directed the Bank that on such payment, the Bank will release the custody of the Maruti Esteem car in question. Against the aforesaid order, the original defendant has filed the present Appeal from Order.

During the pendency of the appeal, learned Single Judge of this Court passed the following order on 17.07.03.

“RULE returnable on 1st August, 2003.

The learned advocate Mr.Parekh waives

service.

Mr.Parekh states that the opponent – plaintiff shall pay a sum of Rs.1,00,000=00 (Rupees One Lakh) towards the outstanding dues of the applicant Bank within fifteen days from today.

In view of the above statement, pending the Appeal there shall be interim relief in terms of paragraph 4(A) on condition that the applicant Bank shall not dispose of the vehicle in question.”

The respondent herein did not comply with the said condition and therefore by another order dated 7.8.03, learned Single Judge allowed the Civil Application and order of trial Court was stayed during the pendency of the Appeal from Order.

Today, learned advocate Mr. Abhichandani submitted that the appellant Bank has already transferred the vehicle to a third party since the plaintiff did not comply with the condition of the stay. It is, therefore, submitted that the order of the trial Court has become infructuous.

Mr. Parekh who is appearing for the original plaintiff has also submitted that his client has not complied with the interim directions granted by the trial Court as well as by this Court at the time of passing the order in Civil Application No. 3500 of 2003. Mr. Parekh has also confirmed the fact that the vehicle is

already sold away to a third party.

Considering the aforesaid aspects of the matter, now interim direction given by the trial Court below Notice of Motion has become infructuous. In that view of the matter, the Appeal from Order is allowed. The impugned order passed by the trial Court below the Notice of Motion in Civil Suit No. 1072 of 2003 is quashed and set aside. The appeal is accordingly allowed. No order as to costs.

[P. B. MAJMUDAR, J.]

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